

GJR/da  
82-82153

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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ADRIAN SCHOOLCRAFT,

Plaintiff,

-against-

**DECLARATION**

Civil Action No.:  
10 CIV 6005 (RWS)

THE CITY OF NEW YORK, DEPUTY CHIEF  
MICHAEL MARINO, Tax Id. 873220, Individually  
and in his Official Capacity, ASSISTANT CHIEF  
PATROL BOROUGH BROOKLYN NORTH  
GERALD NELSON, Tax Id. 912370, Individually and  
in his Official Capacity, DEPUTY INSPECTOR  
STEVEN MAURIELLO, Tax Id. 895117, Individually  
and in his Official Capacity CAPTAIN THEODORE  
LAUTERBORN, Tax Id. 897840, Individually and in  
his Official Capacity, LIEUTENANT JOSEPH GOFF,  
Tax Id. 894025, Individually and in his Official  
Capacity, SGT. FREDERICK SAWYER, Shield No.  
2576, Individually and in his Official Capacity,  
SERGEANT KURT DUNCAN, Shield No. 2483,  
Individually and in his Official Capacity,  
LIEUTENANT CHRISTOPHER BROSCART, Tax  
Id. 915354, Individually and in his Official Capacity,  
LIEUTENANT TIMOTHY CAUGHEY, Tax Id.  
885374, Individually and in his Official Capacity,  
SERGEANT SHANTEL JAMES, Shield No. 3004,  
AND P.O.'s "JOHN DOE" #1-50, Individually and in  
their Official Capacity (the name John Doe being  
fictitious, as the true names are presently unknown)  
(collectively referred to as "NYPD defendants"),  
JAMAICA HOSPITAL MEDICAL CENTER, DR.  
ISAK ISAKOV, Individually and in his Official  
Capacity, DR. LILIAN ALDANA-BERNIER,  
Individually and in her Official Capacity and  
JAMAICA HOSPITAL MEDICAL CENTER  
EMPLOYEE'S "JOHN DOE" # 1-50, Individually and  
in their Official Capacity (the name John Doe being  
fictitious, as the true names are presently unknown),

Defendants.

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**GREGORY J. RADOMISLI**, declares the following pursuant to 28 USC §1746,

under penalty of perjury:

1. I am a Member of Martin Clearwater & Bell LLP, attorneys of record for defendant JAMAICA HOSPITAL MEDICAL CENTER and am fully familiar with the facts and circumstances of this action by virtue of a review of the file in my office.

2. This Declaration is respectfully in opposition to plaintiff's motion pursuant to Rule 15 of the Federal Rules of Civil Procedure to file a Third Amended Complaint.

3. As discussed in detail in the accompanying Memorandum of Law, plaintiff's motion should be denied for the following reasons:

a) Plaintiff's counsel has not demonstrated good cause to amend the Rule 16 Scheduling Orders;

b) Plaintiff's counsel cannot meet the standard for leave to amend because of undue delay, futility, undue prejudice and bad faith.

4. Attached hereto are true copies of the following Exhibits:

- a) Exhibit A – Plaintiff's Summons and Complaint dated August 8, 2010;
- b) Exhibit B – Defendant Jamaica Hospital's Answer dated September 7, 2010;
- c) Exhibit C – Plaintiff's Amended Summons and Complaint dated September 12, 2010;
- d) Exhibit D – Defendant Jamaica Hospital's Answer dated October 6, 2010;
- e) Exhibit E – Defendant Jamaica Hospital's Motion to Dismiss and Memorandum of Law dated January 20, 2011;
- f) Exhibit F – Opinion of The Court dated May 5, 2011;
- g) Exhibit G– Court Order Establishing Deadlines for Discovery dated August 15, 2011;
- h) Exhibit H – Court Order Establishing Deadlines for Discovery dated October 5, 2011;
- i) Exhibit I– Rule 16 Scheduling Order dated February 9, 2012;
- j) Exhibit J– Court Order dated June 14, 2012 Granting in Part and Denying in Part Plaintiff's First Motion to Amend the Complaint;
- k) Exhibit K– Plaintiff's Counsel's Letter Requesting Permission to Amend the Complaint Again, Dated August 1, 2012;


- l) Exhibit L– Court Order dated September 10, 2012 Granting in Part and Denying in Part Plaintiff's Second Motion to Amend the Complaint;
- m) Exhibit M– Plaintiff's September 18, 2012 Counsel's Letter Requesting Permission to Amend the Complaint a Third Time, Which Was So-Ordered;
- n) Exhibit N– Rule 16 Scheduling Order dated September 21, 2012;
- o) Exhibit O – Plaintiff's Second Amended Complaint dated October 1, 2012;
- p) Exhibit P – Jamaica Hospital's Answer dated October 15, 2012;
- q) Exhibit Q– Court Order Establishing Deadlines for Discovery dated December 6, 2013;
- r) Exhibit R– Court Order Establishing Deadlines for Discovery dated January 10, 2014;
- s) Exhibit S– Court Order Establishing Deadlines for Discovery dated March 14, 2014;
- t) Exhibit T– Court Order Establishing Deadlines for Discovery dated June 14, 2014;
- u) Exhibit U– Court Order Establishing Deadlines for Discovery dated July 18, 2014;
- v) Exhibit V –Court Order dated October 29, 2014;
- w) Exhibit W – Deposition Transcript of Dr. Lillian Aldana-Bernier, dated February 11, 2014;
- x) Exhibit X – Deposition Transcript of Dr. Vinod Dhar, dated July 7, 2014;

**WHEREFORE**, it is respectfully requested that plaintiff's motion be denied in its entirety, together with such other and further relief as this Court deems just and proper.

Dated: New York, New York  
December 18, 2014

Yours, etc.,

MARTIN CLEARWATER & BELL LLP

By:   
Gregory J. Radomisli (GJR – 2670)

A Member of the Firm  
Attorneys for Defendant  
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